

EXHIBIT 2

INVESTIGATION OF COMPETITION IN DIGITAL MARKETS

MAJORITY STAFF REPORT AND RECOMMENDATIONS

SUBCOMMITTEE ON ANTITRUST, COMMERCIAL AND ADMINISTRATIVE LAW OF THE COMMITTEE ON THE JUDICIARY

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TABLE OF CONTENTS

I.	INTRODUCTION	6
A.	Chairs’ Foreword	6
B.	Executive Summary	9
1.	Subcommittee’s Investigation	9
2.	Findings	10
3.	Recommendations	19
II.	THE INVESTIGATION OF COMPETITION IN DIGITAL MARKETS	21
A.	Requests for Information and Submissions	21
1.	First-Party Requests for Information	21
2.	Process for Obtaining Responses to First-Party Requests	25
3.	Third-party Requests for Information	26
4.	Antitrust Agencies Requests for Information	28
B.	Hearings	29
C.	Roundtables	31
D.	Prior Investigations	32
III.	BACKGROUND	36
A.	Overview of Competition in Digital Markets	36
1.	The Role of Competition Online	36
2.	Market Structure	37
3.	Barriers to Entry	40
B.	Effects of Platform Market Power	46
1.	Innovation and Entrepreneurship	46
2.	Privacy and Data Protection	51
3.	The Free and Diverse Press	57
4.	Political and Economic Liberty	73
IV.	MARKETS INVESTIGATED	77
A.	Online Search	77
B.	Online Commerce	84
C.	Social Networks and Social Media	88
1.	Social Networks are Distinguishable from Social Media	90
2.	Market Concentration	92
D.	Mobile App Stores	93
E.	Mobile Operating Systems	100

F.	Digital Mapping	107
G.	Cloud Computing	109
H.	Voice Assistant	120
I.	Web Browsers	126
J.	Digital Advertising.....	129
V.	DOMINANT ONLINE PLATFORMS	132
A.	Facebook	132
1.	Overview	132
2.	Social Networking	133
3.	Digital Advertising	170
B.	Google.....	174
1.	Overview	174
2.	Search	176
3.	Digital Advertisements.....	206
4.	Android and Google Play Store.....	211
5.	Chrome	223
6.	Maps	230
7.	Cloud	245
C.	Amazon	247
1.	Overview	247
2.	Amazon.com.....	254
3.	Fulfillment and Delivery	302
4.	Alexa’s Internet of Things Ecosystem	305
5.	Amazon Web Services	316
D.	Apple.....	330
1.	Overview	330
2.	iOS and the App Store.....	334
3.	Siri Intelligent Voice Assistant.....	373
VI.	RECOMMENDATIONS.....	376
A.	Restoring Competition in the Digital Economy.....	377
1.	Reduce Conflicts of Interest Thorough Structural Separations and Line of Business Restrictions	378
2.	Implement Rules to Prevent Discrimination, Favoritism, and Self-Preferencing.....	382
3.	Promote Innovation Through Interoperability and Open Access.....	384
4.	Reduce Market Power Through Merger Presumptions	387

5.	Create an Even Playing Field for the Free and Diverse Press	388
6.	Prohibit Abuse of Superior Bargaining Power and Require Due Process	389
B.	Strengthening the Antitrust Laws	391
1.	Restore the Antimonopoly Goals of the Antitrust Laws	391
2.	Invigorate Merger Enforcement	392
3.	Rehabilitate Monopolization Law	395
4.	Additional Measures to Strengthen the Antitrust Laws	398
C.	Strengthening Antitrust Enforcement	399
1.	Congressional Oversight	399
2.	Agency Enforcement	401
3.	Private Enforcement	403
VII.	APPENDIX: MERGERS AND ACQUISITIONS BY DOMINANT PLATFORMS	406
A.	Amazon	406
B.	Apple	414
C.	Facebook	423
D.	Google	431

intended, and will not violate user privacy.⁴⁸⁹ App stores also reduce customer acquisition costs for app developers by allowing developers to reach an extraordinarily large consumer base—every mobile device user in the U.S. is addressable by developing for the Apple App Store and the Google Play Store. By reducing the costs of app developers, app stores help make software applications more affordable for consumers.⁴⁹⁰

Deloitte has explained that app stores provide developers with various benefits, including providing a consistent interface and experience for users on a mobile operating system, a secure platform for apps, storage systems for hosting apps and managing downloads and updates, and billing and payment management systems that can reduce overhead for developers.⁴⁹¹ Apple and Google also provide developers with software-development tools to create, test, and publish apps; technical support and analytics tools; and tutorials.⁴⁹²

The mobile operating system on a device determines which app stores the user can access. The provider of the mobile operating system determines which app stores may be pre-installed on devices running the operating system, and whether and how additional app stores may be installed. As discussed elsewhere in the Report, both Apple and Google have durable and persistent market power in the mobile operating system market; iOS and Android run on more than 99% of mobile devices in the U.S. and globally.⁴⁹³ There are high switching costs in the mobile operating system market and high barriers to entry. Due to their dominance in the mobile operating system market, Apple and Google have the power to dictate the terms and extent of competition for distributing software on to mobile devices running their respective mobile operating systems.⁴⁹⁴

The Google Play Store is the primary app store installed on all Android devices. The Apple App Store is the only app store available on iOS devices.⁴⁹⁵ Apps are not interoperable between operating systems—native apps developed for iOS only work on iOS devices, and native apps

⁴⁸⁹ See CEO Hearing Transcript at 3 (response to Questions for the Record of Tim Cook, CEO, Apple Inc.) <https://docs.house.gov/meetings/JU/JU05/20200729/110883/HHRG-116-JU05-20200729-QFR054.pdf>; See also JOHN BERGMAYER, PUBLIC KNOWLEDGE, TENDING THE GARDEN: HOW TO ENSURE THAT APP STORES PUT USERS FIRST 1, 5, 18 (2020), https://www.publicknowledge.org/wp-content/uploads/2020/06/Tending_the_Garden.pdf.

⁴⁹⁰ Production of Apple, to H. Comm. on the Judiciary, HJC_APPLE_000003 (Oct. 14, 2019) (on file with Comm.); Neth. Auth. for Consumers & Mkts. Study at 108.

⁴⁹¹ DELOITTE, THE APP ECONOMY IN THE UNITED STATES 8 (2018), https://www.ftc.gov/system/files/documents/public_comments/2018/08/ftc-2018-0048-d-0121-155299.pdf

⁴⁹² Neth. Auth. for Consumers & Mkts. Study at 29.

⁴⁹³ *Id.* at 15.

⁴⁹⁴ See Data and Privacy Hearing at 15 (statement of Maurice E. Stucke, Prof. of Law, Univ. of Tennessee, and Ariel Ezrachi, Slaughter and May Prof. of Competition Law, Univ. of Oxford, Fellow, Pembroke Coll., Dir., Oxford Ctr. For Competition Law and Pol'y), <https://docs.house.gov/meetings/JU/JU05/20191018/110098/HHRG-116-JU05-20191018-SD010.pdf>.

⁴⁹⁵ Neth. Auth. for Consumers & Mkts. Study at 4, 21.

developed for Android only work on Android devices.⁴⁹⁶ The App Store and the Play Store do not compete against one another. Android users cannot access the Apple App Store, and iOS users cannot access the Google Play Store, so the dominance of the Play Store is not constrained by the App Store and vice versa.⁴⁹⁷

Statista reports that in the first quarter of 2020 there were approximately 2.56 million apps available in the Google Play Store and 1.847 million apps available in Apple's App Store.⁴⁹⁸ Apple's App Store is the only means to distribute software on iOS devices.⁴⁹⁹ The Google Play Store is the dominant app store on Android devices; however, Google does permit users to sideload alternative app stores. Some Android device partners, such as Samsung, pre-install their own app stores on their devices.⁵⁰⁰ Leading alternative Android app stores include Amazon's Appstore, Aptoide, F-Droid, and the Samsung Galaxy Store.⁵⁰¹ App developers who want to reach the entire addressable market of U.S. or global smartphone users must have an app in both the App Store and the Play Store.⁵⁰² Apple and Google also determine the terms and conditions app developers must agree to in order to distribute software through the App Store and Play Store, respectively. As a result, app developers and industry observers agree that Apple and Google control the app distribution market on mobile devices.⁵⁰³

⁴⁹⁶ See Interview with Source 407 (Sept. 10, 2020); Interview with Source 143 (Aug. 27, 2020); Neth. Auth. for Consumers & Mkts. Study at 51–52, 67, 73.

⁴⁹⁷ See Press Release, Eur. Comm'n, Antitrust: Commission Fines Google €4.34 Billion for Illegal Practices Regarding Android Mobile Devices to Strengthen Dominance of Google's Search Engine (July 18, 2018) https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4581; Letter from Executive at Source 181, to Members of the Subcomm. on Antitrust, Commercial and Admin. Law, 4 (Oct. 31, 2019) (on file with Comm.); Submission from Source 301, to H. Comm. on the Judiciary, 5, 7 (Oct. 15, 2019) (on file with Comm.).

⁴⁹⁸ *Number of Apps Available in Leading App Stores as of 1st Quarter 2020*, STATISTA, <https://www.statista.com/statistics/276623/number-of-apps-available-in-leading-app-stores/> (last visited Oct. 5, 2020).

⁴⁹⁹ Neth. Auth. for Consumers & Mkts. Study at 50; Interview with Source 766 (July 2, 2020).

⁵⁰⁰ Neth. Auth. for Consumers & Mkts. Study at 50. See Press Release, Eur. Comm'n, Antitrust: Commission Fines Google €4.34 Billion for Illegal Practices Regarding Android Mobile Devices to Strengthen Dominance of Google's Search Engine (July 18, 2018), https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4581 (explaining that worldwide, excluding China, "the Play Store accounts for more than 90% apps downloaded on Android devices").

⁵⁰¹ Joe Hindy, *10 Best Third Party App Stores for Android and Other Options Too*, Android Authority (Aug. 28, 2020), <https://www.androidauthority.com/best-app-stores-936652/>.

⁵⁰² Neth. Auth. for Consumers & Mkts. Study at 15.

⁵⁰³ See e.g., Interview with Source 143 (Aug. 27, 2020); Production of Facebook, to H. Comm. on the Judiciary, FB-HJC-ACAL-00045377 (Feb. 14, 2014) (on file with Comm.) (demonstrating that Facebook COO Sheryl Sandberg explained to Facebook's Board of Directors that Apple and Google's positions as dominant mobile operating system and app store operators posted a "significant strategic threat" to Facebook's business and adding another popular mobile app to Facebook's suite of apps "would make it more difficult for operating system providers to exclude the Company's mobile applications from mobile platforms."); Letter from Executive at Source 181, to Members of the Subcomm. on Antitrust, Commercial and Admin. Law, 4 (Oct. 31, 2019) (on file with Comm.); Kara Swisher, *Is It Finally Hammer Time for Apple and Its App Store*, N.Y. TIMES (June 19, 2020), <https://www.nytimes.com/2020/06/19/opinion/apple-app-store-hey.html?referringSource=articleShare>.